

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE

In Re: Toni Harris

Chapter 13

xxx-xx-9215
Debtor.

Case No. 14-27642

Toni Harris
Plaintiff,
v.
Seterus,
Defendant.

Adv. Pro. _____

COMPLAINT TO COMPEL TURNOVER

Comes now the Debtor, by and through counsel, hereby moves this Court a Complaint to Compel Turnover of Funds. The Debtor would show unto the Court that:

1. The Debtor filed an insurance claim on her home at 2604 Heatherbrook Lane, Germantown, TN 38138 with State Farm for damages to her roof that occurred on February 19, 2014, and prior to the commencement of this Chapter 13 Bankruptcy.

2. State Farm issued funds to the Debtor and her mortgage company, Seterus, in the amount of Six Thousand Eighty-Three (\$ 6,083.55) Dollars and Fifty-five Cents. The Debtor was required to have Seterus sign off on the check in order to cash the check and make the repairs to her home. She contacted Seterus, and they requested that the check be sent to them so they can reissue a check in her name only.

3. The Debtor was behind on her mortgage payments, and Seterus cashed the check for Six Thousand Eighty-Three (\$ 6,083.55) Dollars and Fifty-five Cents and converted the funds to offset the missed mortgage payments.

4. The Debtor filed for Chapter 13 Bankruptcy protection on July 25, 2014 to repair the missed arrears to Seterus.

5. The funds from State Farm are still in a suspense account with Seterus, and the Debtor's roof still needs to be repaired. To date, because the roof is still in disrepair, further damage to the roof continues to occur from wind and storm damage. The Debtor believes that, as the winter approaches, further damage will occur until the roof is repaired.

4. The Debtor requests that these funds be refunded immediately to the Debtor so that she may repair her roof before further damage occurs. The Debtor further requests she be awarded reasonable attorney fees, any other relief to which he may be entitled

WHEREFORE, PREMISES CONSIDERED, the Debtor prays that this matter be set for a hearing, that the Court enter an order directing the Defendant to turnover the funds directly to the Debtor, that she be awarded reasonable attorney fees, any other relief to which she may be entitled, and that the Chapter 13 Trustee adjust the plan as necessary.

Respectfully submitted,

JIMMY E. McELROY AND ASSOCIATES

/s/ Joseph D. Fox
Joseph D. Fox, B.P.R.No. 15809
Attorney for Debtor
200 Jefferson Ave., Suite 125
Memphis, TN 38103
(901) 527 - 4110

Service to:

Debtor
Debtor's Attorney
Case Trustee
All Entities on Matrix

CT Corporation Systems for Seterus
800 S. Gay Street
Suite 2021
Knoxville, TN 37929-9710

Certificate of Service

I, Joseph D. Fox, attorney for Debtor, do hereby certify that I have this day mailed or transmitted electronically a true and correct copy of the above pleading as hereinabove indicated.

So certified, this October 30, 2014.

/s/ Joseph D. Fox
Joseph D. Fox, B.P.R.No. 15809